

**NORTH LAS VEGAS CITY COUNCIL
AGENDA ITEM**

Number: **37**

SUBJECT: Ordinance No. 2430 (ZOA-04-08); an Ordinance amendment initiated by the City of North Las Vegas to amend Title 17 (Zoning Ordinance), Sections 17.12.020, 17.20.100, 17.20.110, 17.20.120, 17.20.140, 17.20.230, and 17.28.050 and add Section 17.24.105 regarding definitions, terminology; and procedures for both "on-sale" and off-sale liquor uses.

REQUESTED BY: City of North Las Vegas

RECOMMENDATION OR RECOMMENDED MOTION: It is recommended that on March 5, 2008, Council introduce Ordinance No. 2430 and approve Ordinance No. 2430 on March 19, 2008.

FISCAL IMPACT:
Amount: \$
Explanation:

ACCOUNT NUMBER:

STAFF COMMENTS AND BACKGROUND INFORMATION:

At the meeting of February 27, 2008, the Planning Commission unanimously recommended approval (7-0 vote) of the proposed ordinance amendment. Commissioner Dean Leavitt made the motion to approve and Commissioner Harry Shull seconded the motion.

With the proposed ordinance, the definitions and licensing requirements for liquor uses will be amended. Related ordinances affecting Liquor and Gaming Business Licensing (Title 5) are numbers 2428, 2429, and 2431, which are on this agenda for consideration.

The zoning ordinance amendment eliminates the classification of Tavern/Restaurant, Saloon, Supper Club, and replaces them with the functional license categories established in Title 5. The proposed revisions place all land use and separation requirements within Title 17.

The Planning and Zoning Department recommended approval of the proposed amendment.


Attachments:
Ordinance Number 2430
Staff Report
Excerpt from the Planning Commission Minutes


LIST CITY COUNCIL GOAL(S):
Planned and Quality Growth.

PREPARED BY:

**RESPECTFULLY
SUBMITTED:**

**CITY COUNCIL
MEETING DATE:**


Frank A. Fiori, AICP
Acting Planning and Zoning Director


Gregory E. Rose
City Manager

March 5, 2008
March 19, 2008
May 7, 2008

ORDINANCE NO. 2430

AN ORDINANCE AMENDING TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF NORTH LAS VEGAS, RELATING TO ZONING (ZOA-04-08) BY AMENDING TITLE 17 (SECTIONS 17.12.020, 17.20.100, 17.20.110, 17.20.120, 17.20.140, 17.20.230, AND 17.28.050) AND ADDING SECTION 17.24.105 REGARDING DEFINITIONS, TERMINOLOGY AND PROCEDURES FOR BOTH ON-SALE AND OFF-SALE LIQUOR USES AND PROVIDE FOR OTHER MATTERS PROPERLY RELATED THERETO.

THE CITY COUNCIL OF THE CITY OF NORTH LAS VEGAS DOES ORDAIN THAT TITLE 17 BE AMENDED AS FOLLOWS:

17.12.020 **Definitions**

Commercial Center means a concentration of proposed or existing retail stores consisting of not less than two hundred thousand (200,000) square feet, including an anchor retail store of not less than one hundred thousand (100,000) square feet, that share common parking lot driveways and/or spaces and which are situated upon not less than thirty (30) gross acres of land.

Public Park Any publicly owned land that is predominately open space, primarily used for the active or passive recreational uses. The park may include other cultural, educational, or aesthetic uses. For the purposes of this chapter a public park does not include any City trails or Clark County School District property.

“On-Sale” Establishments Any establishment holding the following liquor licenses as outlined in 5.26:

- Beer-Wine-Spirit-Based Products On-Sale;
- Full Liquor On-Sale;
- Nonprofit Club Liquor; or
- Restricted Gaming Liquor.

Package Liquor Store Any establishment where the primary business is the sale of alcoholic beverages for off-premises consumption. Package liquor stores must hold a Full Liquor Off-Sale License.

Trail means the linear areas not adjacent to a street that may follow natural features such as washes, ridge lines, flood control facilities, and utility rights of way designed for and used by cyclists, pedestrians, and equestrians. A trail may contain but is not limited to, trailheads, walkways, landscaping, lighting, benches, recreational nodes, dog stations, and trash receptacles.

17.20.100 Neighborhood Commercial District (C-1)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.110 General Commercial District (C-2)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.120 General Service Commercial District (C-3)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.140 General Industrial District (M-2)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.230 Mixed Use Development District (MUD)

E. Land Uses

- 2. Commercial Uses
 - c. "On-Sale" Licenses
 - d. Restricted Gaming Liquor License

F. General Requirements

- 10. "On Sale" Establishments. The following development standards shall apply to all "on sale" establishments located within a mixed use project:
 - a. Approval of a site specific special use permit is required for each "on sale" establishment. Application(s) for special use permit(s) may be considered concurrently with the application for mixed use zoning.
 - b. One (1) "on sale" establishment may be allowed for every 50,000 square feet of commercial floor area (gross) located within the same mixed use project.

- c. Mixed use projects containing less than 50,000 square feet of commercial floor area (gross) may be allowed a minimum of one (1) "On Sale" establishment, provided that such establishment complies with the requirements of this section. Office uses and live/work units may count toward the commercial floor area requirement, provided that such uses are located adjacent to commercial areas.
- d. In order to promote family-friendly dining opportunities, the ratio of Restricted Gaming Liquor licenses to Beer- Wine-Spirit-Based Products License and/or Full Liquor Licenses within any mixed use development shall not exceed two to one (2:1).

17.24.025 Conditional Uses

C. Regulations for Specific Conditional Uses

3. "Off-Sale" Liquor Licenses

Must comply with the Distance Separation Requirements as outlined in 17.24.105 (C).

17.24.105 Liquor Uses

A. Purpose and Intent

The purpose of this section is to provide a procedure for the regulations of liquor licenses as they relate to land uses within the City. These regulations are related to the licensing requirements in 5.26 of the North Las Vegas Code and provide all land use regulations for liquor licenses. Additional requirements for "On-Sale" establishments in mixed-use developments are in 17.20.230.

B. Permit Required

All liquor license uses within the City of North Las Vegas require a conditional or special use permit. All proposed off-sale liquor locations are required to obtain a conditional use permit. All proposed sites that need an "On-Sale" license or a Restricted Gaming Liquor License are required to obtain a special use permit.

C. Distance Separation Requirements

1. Proof of Proximity Distance Compliance Required.

The City shall not accept, nor set for hearing any request unless the applicant provides to the City one of the following with the application:

- (a) A notarized statement by the applicant that the location complies with the proximity distance requirements below; and a survey plat prepared by a Nevada Licensed Professional Land Surveyor showing that the proposed location complies with the proximity distance requirements below;
- (b) A request for a waiver where available is provided with the special use permit as allowed below

Such distances shall be measured utilizing the shortest direct line distance between the primary public entrance of the proposed location and the nearest property line of property to which it must be separated.

2. Proximity Distance Requirements:

Liquor License	Separation from Schools* and Daycare	Separation from Churches and Parks	Separation between Like Uses	Separation from Developed Residential**
Restricted Gaming	1500' ^{1,2}	1500' ^{1,2}	2500' ^{1,2,3}	500' ¹
Non-Profit Club	400'	400' ⁴		
Full "On-Sale"	400'	400' ⁴		
Beer-Wine-Spirit-Based Products "On-Sale"	400'	400' ⁴		
Full "Off-Sale"	400'	400'	1500'	
Beer/Wine "Off-Sale"	400'	400'		

* For the purposes of this section, schools shall defined as Kindergarten through 12th Grade. Other post secondary schools shall not be included.

** For the purposes of this section, developed residential shall be defined as a parcel of land zoned for residential use in which construction for at least one residential unit has begun on the date the applicant applied for the special use permit.

Notes:

1. A waiver of the proximity distance requirements outlined above may be granted by the City Council if an adequate barrier exists between the two uses. An "adequate barrier" is defined as: an improved drainage facility, Interstate 215, Interstate 15, other constructed roadway with a minimum width of one hundred twenty feet, or a topographical feature which prevents

vehicular and pedestrian access between a church, school, city-owned park or child care facility licensed for more than twelve children, residential development, existing Restricted Gaming Liquor location and the proposed Restricted Gaming Liquor location. A topographical feature does not include any building, wall, fence or other man-made structure. The boundary limits of these streets, freeways and freeway crossovers are as defined by the City of North Las Vegas;

2. This proximity distance separation requirement outlined above shall not apply to establishments located within the boundaries of an approved mixed use project or located within two or more mixed use projects located immediately adjacent to one another but approved separately;
3. A waiver of the two thousand five hundred (2,500) feet proximity distance requirement between one proposed Restricted Gaming Liquor location and an approved or existing Restricted Gaming Liquor location may be considered within the boundaries of a commercial center.
4. A waiver of the four hundred (400) feet proximity distance requirement may be considered for select "On-Sale" uses with approval of a special use permit from the appropriate governing body for the proposed use.

D. Certain Uses Requiring "On-Sale" Liquor Licenses

1. Generally.
 - (a) Approval of a special use permit for any of the uses provided below does not constitute or imply approval of any privileged license that may be otherwise required by this Code.
 - (b) Any change in location or license type as defined in Chapter 5.26 of this Code shall necessitate application for and approval of a new special use permit for the new location or license type.
 - (c) The special use permit shall be null and void if the applicant fails to fulfill any and all conditions, stipulations and limitations within the time limit allowed from the public meeting date upon which the special use permit was approved, unless an extension of time is granted by the appropriate governing body.
 - (d) The special use permit shall be null and void if the applicant allows the building permit to expire;
 - (e) The special use permit shall be null and void if the applicant fails to obtain a business license within six months of a certificate of occupancy.

2. Establishment requiring a Beer-Wine-Spirit-Based Products On-Sale, Full Liquor On-Sale and Nonprofit Club Liquor license. In addition to any other requirements as provided by this Code or any other relevant law, Beer-Wine-Spirit-Based Products On-Sale, Full Liquor On-Sale and Nonprofit Club Liquor establishments are hereby conditioned as follows:

Expiration of Special Use Permit.

Any and all conditions, stipulations and limitations shall be fulfilled and construction commenced within two (2) years from the public meeting date upon which the special use permit was approved.

3. Restricted Gaming Liquor license. In addition to any other requirements as provided by this Code or any other relevant law, Restricted Gaming Liquor license is hereby conditioned as follows:

Expiration of Special Use Permit.

Any and all conditions, stipulations and limitations shall be fulfilled and construction commenced within one (1) from the public meeting date upon which the special use permit was approved.

17.28.050 Procedure for Special Use Permit

C. Planning Commission Hearing and Actions.

4. City Council Hearing and Action Other than Appeal.
 - a. Generally. As indicated by this section, or otherwise required by this code or laws applicable to this municipality, final action on some special use permit applications is required to be taken by the City Council. In such a case, the decision of the City Council is final.
 - b. Procedure - Notice and Hearing. The notice and hearing requirements for City Council hearings on special use permits other than appeals shall be governed by NLVMC 17.28.050(C) in its entirety, with the exception that no appeal exists from a final decision of the City Council.
 - c. Final Action - Restricted Gaming Liquor Uses. Consideration of an application for a special use permit for Restricted Gaming Liquor Uses shall only be presented to the City Council for final action. As delineated above, the form of decision, considerations required for approval and any requests for extensions of time for a Restricted Gaming Liquor Uses special use permit are governed by the provisions of NLVMC 17.24.105 & 17.28.050(C)

SECTION 2: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges, or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 3: SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect the validity and enforceability of the remaining provisions of this Ordinance.

SECTION 4: EFFECTIVE DATE. This Ordinance shall become effective after its passage by the City Council of the City of North Las Vegas and, after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

SECTION 5: PUBLICATION. The City Clerk shall cause this Ordinance, immediately following its adoption, to be published once by title, together with the names of the Councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of NRS, as amended from time to time.

PASSED AND ADOPTED THIS _____ day of _____, 2008.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED:

MICHAEL L. MONTANDON, MAYOR

ATTEST:

KAREN L. STORMS, CMC, CITY CLERK

CITY OF NORTH LAS VEGAS
MEMORANDUM

TO: PLANNING COMMISSION

FROM: PLANNING & ZONING DEPARTMENT

SUBJECT: **# 10) ZOA-04-08; ZONING ORDINANCE AMENDMENT**

DATE: February 27, 2008

This application has been tabled from the February 13, 2008 Planning Commission meeting due to power outage during meeting.

Attachments:

Original staff report dated February 13, 2008

#16) ZOA-04-08
ZONING ORDINANCE AMENDMENT
PUBLIC HEARING

STAFF REPORT

To: Planning Commission
Item: ZOA-04-08

Meeting Date: February 13, 2008
Prepared By: Robert Eastman

GENERAL INFORMATION:

Applicant: City of North Las Vegas

Requested Action: To amend the Zoning Ordinance (§17)

BACKGROUND INFORMATION:

An ordinance amendment initiated by the City of North Las Vegas to amend Title 17 (Sections 17.12.020, 17.20.100, 17.20.110, 17.20.120, 17.20.140, 17.20.230, and 17.28.050) and add Section 17.24.105 regarding definitions, terminology; and procedures for both "on-sale" and off-sale liquor uses.

With the proposed amendment, the city intends to repeal Sections 17.24.020(C)(9) and 17.28.050(B)(4). These two sections contain the conditions and procedures for "on-sale" liquor uses. The city is proposing to create Section 17.24.105 which will group the procedures and conditions together. This is in conjunction with amendments to Title 5 regarding licensing requirements for liquor uses. These proposed amendments will bring consistency between Title 5 and Title 17 and help bring more flexibility to the business code.

ANALYSIS:

City Council directed staff to amend and update the titles concerning liquor and gaming. The changes affect Titles 5.20, 5.26 and 17 (Zoning Ordinance). With the proposed ordinance, the definitions and licensing requirements for liquor uses will be amended. The zoning ordinance eliminates the classification of Tavern/Restaurant, Saloon, Supper Club, and replaces them with the functional license categories established in Title 5. This should eliminate the inconsistencies between the two titles regulating liquor uses.

The proposed revisions place all land use and separation requirements within Title 17. Additionally, the proposed changes will remove all seating requirements and seating ratios for liquor uses. The proposed changes place the emphasis on gaming rather than on liquor uses. Currently, a Tavern/Restaurant or a Saloon use permit is needed for a business to operate a restricted gaming license. This emphasizes the ratio between liquor and food sales. The proposed amendment requires all uses that would operate a restricted gaming

license (e.g. Pts, Mulligans, Kavanaugh's, etc.) to obtain a use permit from the City Council, using a similar procedure that is in place now for Tavern/Restaurant. However, any use that wants a full on-sale license without gaming (e.g. Applebees, Chili's, Outback), will be reviewed by the Planning Commission, using the normal use permit procedure.

RECOMMENDATION:

The Planning & Zoning Department recommends that ZOA-04-08 be considered and Title 17 be amended as follows:

17.12.020 Definitions

Commercial Center means a concentration of proposed or existing retail stores consisting of not less than two hundred thousand (200,000) square feet, including an anchor retail store of not less than one hundred thousand (100,000) square feet, that share common parking lot driveways and/or spaces and which are situated upon not less than thirty (30) gross acres of land.

Public Park Any publicly owned land that is predominately open space, primarily used for the active or passive recreational uses. The park may include other cultural, educational, or aesthetic uses. For the purposes of this chapter a public park does not include any City trails or Clark County School District property.

"On-Sale" Establishments Any establishment holding the following liquor licenses as outlined in 5.26:

- Beer-Wine-Spirit-Based Products On-Sale;
- Full Liquor On-Sale;
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- Restricted Gaming Liquor.

Package Liquor Store Any establishment where the primary business is the sale of alcoholic beverages for off-premises consumption. Package liquor stores must hold a Full Liquor Off-Sale License.

Trail means the linear areas not adjacent to a street that may follow natural features such as washes, ridge lines, flood control facilities, and utility rights of way designed for and used by cyclists, pedestrians, and equestrians. A trail may contain but is not limited to, trailheads, walkways, landscaping, lighting, benches, recreational nodes, dog stations, and trash receptacles.

17.20.100 Neighborhood Commercial District (C-1)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.110 General Commercial District (C-2)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.120 General Service Commercial District (C-3)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.140 General Industrial District (M-2)

C. Special Uses Subject to Section 17.24.020

"On-Sale" Establishments

17.20.230 Mixed Use Development District (MUD)

E. Land Uses

- 2. Commercial Uses
 - c. "On-Sale" Licenses
 - d. Restricted Gaming Liquor License

F. General Requirements

- 10. "On Sale" Establishments. The following development standards shall apply to all "on sale" establishments located within a mixed use project:
 - a. Approval of a site specific special use permit is required for each "on sale" establishment. Application(s) for special use permit(s) may be considered concurrently with the application for mixed use zoning.
 - b. One (1) "on sale" establishment may be allowed for every 50,000 square feet of commercial floor area (gross) located within the same mixed use project.

- c. Mixed use projects containing less than 50,000 square feet of commercial floor area (gross) may be allowed a minimum of one (1) "On Sale" establishment, provided that such establishment complies with the requirements of this section. Office uses and live/work units may count toward the commercial floor area requirement, provided that such uses are located adjacent to commercial areas.
- d. In order to promote family-friendly dining opportunities, the ratio of Restricted Gaming Liquor licenses to Beer- Wine-Spirit-Based Products License and/or Full Liquor Licenses within any mixed use development shall not exceed two to one (2:1).

17.24.025 Conditional Uses

C. Regulations for Specific Conditional Uses

3. "Off-Sale" Liquor Licenses

Must comply with the Distance Separation Requirements as outlined in 17.24.105 (C).

17.24.105 Liquor Uses

A. Purpose and Intent

The purpose of this section is to provide a procedure for the regulations of liquor licenses as they relate to land uses within the City. These regulations are related to the licensing requirements in 5.26 of the North Las Vegas Code and provide all land use regulations for liquor licenses. Additional requirements for "On-Sale" establishments in mixed-use developments are in 17.20.230.

B. Permit Required

All liquor license uses within the City of North Las Vegas require a conditional or special use permit. All proposed off-sale liquor locations are required to obtain a conditional use permit. All proposed sites that need an "On-Sale" license or a Restricted Gaming Liquor License are required to obtain a special use permit.

C. Distance Separation Requirements

1. Proof of Proximity Distance Compliance Required.

The City shall not accept, nor set for hearing any request unless the applicant provides to the City one of the following with the application:

- (a) A notarized statement by the applicant that the location complies with the proximity distance requirements below; and a survey plat prepared by a Nevada Licensed Professional Land Surveyor showing that the proposed location complies with the proximity distance requirements below;
- (b) A request for a waiver where available is provided with the special use permit as allowed below

Such distances shall be measured utilizing the shortest direct line distance between the primary public entrance of the proposed location and the nearest property line of property to which it must be separated.

2. Proximity Distance Requirements:

Liquor License	Separation from Schools* and Daycare	Separation from Churches and Parks	Separation between Like Uses	Separation from Developed Residential**
Restricted Gaming	1500' ^{1,2}	1500' ^{1,2}	2500' ^{1,2,3}	500' ¹
Non-Profit Club	400'	400' ⁴		
Full "On-Sale"	400'	400' ⁴		
Beer-Wine-Spirit-Based Products "On-Sale"	400'	400' ⁴		
Full "Off-Sale"	400'	400'	1500'	
Beer/Wine "Off-Sale"	400'	400'		

* For the purposes of this section, schools shall defined as Kindergarten through 12th Grade. Other post secondary schools shall not be included.

** For the purposes of this section, developed residential shall be defined as a parcel of land zoned for residential use in which construction for at least one residential unit has begun on the date the applicant applied for the special use permit.

Notes:

1. A waiver of the proximity distance requirements outlined above may be granted by the City Council if an adequate barrier exists between the two uses. An "adequate barrier" is defined as: an improved drainage facility, Interstate 215, Interstate 15, other constructed roadway with a minimum

width of one hundred twenty feet, or a topographical feature which prevents vehicular and pedestrian access between a church, school, city-owned park or child care facility licensed for more than twelve children, residential development, existing Restricted Gaming Liquor location and the proposed Restricted Gaming Liquor location. A topographical feature does not include any building, wall, fence or other man-made structure. The boundary limits of these streets, freeways and freeway crossovers are as defined by the City of North Las Vegas;

2. This proximity distance separation requirement outlined above shall not apply to establishments located within the boundaries of an approved mixed use project or located within two or more mixed use projects located immediately adjacent to one another but approved separately;
3. A waiver of the two thousand five hundred (2,500) feet proximity distance requirement between one proposed Restricted Gaming Liquor location and an approved or existing Restricted Gaming Liquor location may be considered within the boundaries of a commercial center.
4. A waiver of the four hundred (400) feet proximity distance requirement may be considered for select "On-Sale" uses with approval of a special use permit from the appropriate governing body for the proposed use.

D. Certain Uses Requiring "On-Sale" Liquor Licenses

1. Generally.

- (a) Approval of a special use permit for any of the uses provided below does not constitute or imply approval of any privileged license that may be otherwise required by this Code.
- (b) Any change in location or license type as defined in Chapter 5.26 of this Code shall necessitate application for and approval of a new special use permit for the new location or license type.
- (c) The special use permit shall be null and void if the applicant fails to fulfill any and all conditions, stipulations and limitations within the time limit allowed from the public meeting date upon which the special use permit was approved, unless an extension of time is granted by the appropriate governing body.
- (d) The special use permit shall be null and void if the applicant allows the building permit to expire;

- (e) The special use permit shall be null and void if the applicant fails to obtain a business license within six months of a certificate of occupancy.

- 2. Establishment requiring a Beer-Wine-Spirit-Based Products On-Sale, Full Liquor On-Sale and Nonprofit Club Liquor license. In addition to any other requirements as provided by this Code or any other relevant law, Beer-Wine-Spirit-Based Products On-Sale, Full Liquor On-Sale and Nonprofit Club Liquor establishments are hereby conditioned as follows:

Expiration of Special Use Permit.

Any and all conditions, stipulations and limitations shall be fulfilled and construction commenced within two (2) years from the public meeting date upon which the special use permit was approved.

- 3. Restricted Gaming Liquor license. In addition to any other requirements as provided by this Code or any other relevant law, Restricted Gaming Liquor license is hereby conditioned as follows:

Expiration of Special Use Permit.

Any and all conditions, stipulations and limitations shall be fulfilled and construction commenced within one (1) from the public meeting date upon which the special use permit was approved.

17.28.050 Procedure for Special Use Permit

C. Planning Commission Hearing and Actions.

4. City Council Hearing and Action Other than Appeal.

- a. Generally. As indicated by this section, or otherwise required by this code or laws applicable to this municipality, final action on some special use permit applications is required to be taken by the City Council. In such a case, the decision of the City Council is final.
- b. Procedure - Notice and Hearing. The notice and hearing requirements for City Council hearings on special use permits other than appeals shall be governed by NLVMC 17.28.050(C) in its entirety, with the exception that no appeal exists from a final decision of the City Council.

- c. Final Action - Restricted Gaming Liquor Uses. Consideration of an application for a special use permit for Restricted Gaming Liquor Uses shall only be presented to the City Council for final action. As delineated above, the form of decision, considerations required for approval and any requests for extensions of time for a Restricted Gaming Liquor Uses special use permit are governed by the provisions of NLVMC 17.24.105 & 17.28.050(C)

10. **ZOA-04-08 (34150) CNLV (PUBLIC HEARING). AN ORDINANCE AMENDMENT INITIATED BY THE CITY OF NORTH LAS VEGAS TO AMEND TITLE 17 (SECTIONS 17.12.020, 17.20.100, 17.20.110, 17.20.120, 17.20.140, 17.20.230, AND 17.28.050) AND ADD SECTION 17.24.105 REGARDING DEFINITIONS, TERMINOLOGY: AND PROCEDURES FOR BOTH "ON-SALE" AND OFF-SALE LIQUOR USES AND PROVIDE FOR OTHER MATTERS PROPERLY RELATED THERETO. (TABLED FEBRUARY 13, 2008)**

DRAFT

The application was presented by Robert Eastman, Principal Planner who explained ZOA-04-08 was in conjunction with proposed Title 5 changes and was specifically in relation to the land use criteria for "on-sale" and "off-sale" liquor uses within the City. The changes to Title 17 being proposed taking all distance separation requirements that were currently located in both Title 5 and Title 17 and incorporating them into Title 17, which is listed in a table which would be easier to read and understand. The ordinance would also streamline and change some of the definitions, whereas, in Title 17, for the most part, all liquor uses that came before the Commission for "on-sale" were classified as either a supper club or a tavern/restaurant. The problem with those was, that they did not correlate in any way to license categories for business licenses in Title 5. Title 5 has a large number of license categories, which, the way the title was written, put a large number of liquor uses into what was currently called a general "on-sale", which was what Applebee's, PT's, or Mulligan's would have, so it grouped what the Planning Department would think of as a supper club and tavern, using the same license criteria and with the same license criteria, the same fees and checks, so there was a need to change Title 5 and when Title 5 was being amended, it required changes to Title 17. With the changes, it was proposed to put all of the land use criteria for liquor uses in the City, in Title 17, so it could be reviewed by the Planning Commission. The main changes were with the definitions, so instead of having an application for beer/wine "on-sale" or for supper clubs coming before the Commission and then tavern/restaurants going to City Council, that was very similar to what would be done in this criteria, but, instead, it used common language, so the applicant knew when their application was submitted and approved through the Planning Commission, they could see the corresponding liquor license category and move through the system at a faster pace. The only functional changes in the ordinance that were different than what currently existed, was that there were some changes that allowed some waivers to the distance separation requirements that allowed non-profit clubs and "on-sale" liquor establishments, which were currently considered supper clubs, to apply for a waiver of the 400 foot separation from churches and parks. Mr. Eastman explained in the past there had been supper clubs come before the Commission, that were close to a City park and had requested a use permit and Staff recommended denial because they did not meet the separation requirement, City Council had overturned the denial and approved them because they desired restaurants, even if they were closer to a park. It was not that they wanted to see a PT's or Mulligan's next to a park, but they wanted to see more restaurants that might have liquor, but wanted the ability to review it. The other changes were to

streamline the Code, to eliminate text that was repetitive by using charts and the language was put in the Code once and made it more user friendly. The other changes proposed were in Title 5 and they removed the different seating requirements and seating ratios in what would now be a supper club. The other principle change was that the licenses were based on the separation being for gaming, so that if a restricted gaming license was being requested, it would go to City Council for their review and approval and would require the 2500 foot separation. The only other change that would merit comment, was the definition of schools was changed as it related to this code. A school, in this context, was an establishment from K-12, as opposed to what was currently listed in the ordinance, which was any educational establishment. So, the proposed UNLV Campus, when it is built, would not generate the separation requirements.

Chairman Steve Brown opened the Public Hearing. The following participants came forward:

- **Tony Celeste of Kummer, Kaempfer, Bonner, Renshaw & Ferrario, 3800 Howard Hughes Parkway, 7th Floor, Las Vegas, NV 89169** confirmed with Staff that the applications that may have been submitted prior to the adoption of the proposed ordinance, would still be applicable to the current code.

Nick Vaskov, Deputy City Attorney responded the intent was that if there was a use permit currently in the system for either land use approval or business license approval, that the applicant would have the option of complying with the existing code rather than the future code. At some point, the liquor license classification would be converted to the new license classification structure, but would not affect the land use consideration.

- **Bob Gronauer of Kummer, Kaempfer, Bonner, Renshaw & Ferrario, 3800 Howard Hughes Parkway, 7th Floor, Las Vegas, NV 89169** appeared representing the Binion Family. He commended Staff on going through the issues and felt everything had been laid out to address many of the issues. He was concerned that the taverns on the mixed use mall site be grand fathered in and also had a concern regarding supper clubs and understood the definition between a restaurant and supper club and thought there needed to be flexibility because in talking with his client, they mentioned they were concerned when mixed use developments were done, it was the restaurants that would drive the people there. He did not want to be told in the future that two supper clubs could not be put together along with the taverns. He felt any issues could be worked out before the application was heard by City Council and the ordinance would clear up many issues they had run into in the past.
- **Jeffrey Silver, Esq., Gordon and Silver Law Firm, 3960 Howard Hughes Parkway, Las Vegas, NV 89169** appeared on behalf of Desert Star indicating he was in favor of the application and felt the work done on the ordinance was

excellent and long overdue to try to organize the liquor code. He was concerned that Desert Star was not in an outlying area that was yet to be developed, like the Binion property, but were packed into a commercial area that was already in existence. As a result of that, with the MUD, he understood there would be no distance restrictions between locations that might be authorized within the particular MUD approved project; however, they may have facilities located around them and there was a school on the other side of North 5th Street that could impact the distances as to where they must place certain items on their property. If they were talking about adequate barriers as being the 215 Beltway, I-15, etc., they probably should take a look at roadways that were projected to be 150 feet as being an adequate barrier so there could be the flexibility within their own project to place their eating and drinking establishments in a location that was purposeful in terms of the traffic flow they were desiring. The other issue had to do with child care. He indicated there was a lot of commercial in the shopping center and wanted to be sure some of the requirements regarding day care be excluded from the distance requirements within the MUD. He commented when there was an MUD project, it seemed it was very carefully considered by Staff, the Planning Commission and City Council before it was approved and felt once it was approved, it should be exempted from any of the other requirements that pertain to how other businesses that are located outside of an approved district should operate and felt it should be looked at as a self-contained city. That should also hold true with respect to the kinds of businesses that would be allowed; for example, in the case of the ratios provided, if they wanted to create a restaurant row, as long as it was put in the MUD at the beginning. He was looking for the maximum flexibility.

- **George Garcia of G.C. Garcia, Inc., 1711 Whitney Mesa Drive, Suite 110, Henderson, NV 89014** commended Staff on their efforts to simplify the Code. He would continue to work with Staff before the application was heard by City Council and agreed with Mr. Gronauer on making sure the grand fathering issues were taken care of and also with Mr. Silver on the mixed use projects to make sure they were protected within and from outside the project from the proximity requirements. The developers were looking for certainty and predictability from the City's rules and regulations. Some of the regulations in the new code were carryover from the current Code and some thought and consideration should be given to some of them. Currently, the commercial center definition required a 100,000 square foot major anchor. He explained there were projects in the valley that did not have a 100,000 square foot anchor and were tremendous commercial centers. With the current regulations, you could not have that type of mall, as there must be a major anchor. He felt the new proximity requirements for gaming caused a new level of difficulty and problems and indicated hotels had lounges and in the lounges there might be gaming establishments, which would fall under the same restricted gaming category, which also needed to be considered. Nobody could anticipate all of the circumstances that would be encountered, so flexibility should be added that gave

the Planning Commission and City Council the ability to determine when an adequate barrier existed, not try to spell out every circumstance in the Code. The base distance requirements on door to door rather than property line to property line should be considered. He also had a concern regarding the requirement to obtain a business license within six months of receiving a certificate of occupancy.

Chairman Brown closed the Public Hearing.

Commissioner Dean Leavitt indicated after hearing comments from the public, he would be in favor of approval and asked to be included in the meeting to be held regarding the ordinance. He expressed his concern about the way the zoning ordinance amendment was presented to the Planning Commission and wanted the Planning Commission included to the fullest extent before they went to City Council. He understood the necessity to expedite the process.

Chairman Brown stated anytime a major revamp was done of anything pertaining to law, you could end up with unintended consequences and he felt Mr. Garcia had brought forth several examples of unintended consequences and as long as Staff diligently looked for those consequences before the ordinance was approved by Council, he could support the application.

Nick Vaskov, Deputy City Attorney explained when the zoning ordinance amendment process was started a year and a half ago, one of the things that was expressed was that it would be a big undertaking and it would be very difficult to anticipate all of the consequences of doing this kind of revision to the Code and that everyone was under the common understanding that as unintended consequences came to their attention, Staff would be willing to look at them, whether it was before it was enacted or going forward when it was discovered, as the development community came forward with applications when using the system.

Chairman Brown stated having someone like Mr. Garcia or Mr. Silver coming forward pointing things out, so they could be addressed was helpful.

Commissioner Ned Thomas agreed the zoning ordinance amendment was an improvement over what was currently being used. He commented that North 5th Street was intended to be pedestrian friendly to support future transit and he disagreed with the idea of using that particular 150 foot right-of-way to be considered an adequate barrier. He agreed, every possible consequence could not be thought of, but if North 5th Street was to be pedestrian friendly, it could not be considered as an adequate barrier for taverns.

Deputy City Attorney Vaskov stated one of the things being struggled with, was to balance the direction received from Council to liberalize the Liquor Code, especially, the proximity requirements, along with the desire by Council that there be some hard and fast rules and

lines with regard to those same things. He thought to the extent direction was received from Council, Staff had done a good job. Many of the concerns raised at this meeting, were valid concerns in Staff's opinion, but they could only go as far as direction had been received from Council.

Commissioner Dilip Trivedi asked if c-stores had to apply for a beer/wine license and if there were proximity requirements in the code for them. Mr. Eastman responded if a c-store was selling beer or wine, they would have a beer/wine "off-sale" license and all "off-sale" licenses were covered by the 400 foot separation requirement. Actual independent liquor stores were covered by a 1500 foot separation of like uses from liquor store to liquor store but a convenience store that had a beer/wine license was only covered by the 400 foot separation from schools and churches.

ACTION: APPROVED; FORWARDED TO CITY COUNCIL FOR FINAL CONSIDERATION

MOTION: Commissioner Leavitt

SECOND: Commissioner Shull

AYES: Chairman Brown, Vice-Chairman Trivedi, Commissioners Leavitt, Aston, Shull, Cato, and Thomas

NAYS: None

ABSTAIN: None

There was a break in proceedings at 7:47 p.m.

The meeting reconvened at 7:58 p.m.